

REMARKS

This is a full and timely response to the outstanding Final Office Action mailed May 1, 2003. Reconsideration and allowance of the application and presently pending claims 1-2, 4-16, 18-21 and 23-25 are respectfully requested.

Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-2, 4-16, and 18-21 and 23-25 remain pending in the present application. More specifically, claims 1, 7, 16, and 19-21 have been currently amended, claims 3, 17, and 22 have been cancelled, and claims 23-25 are newly added. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

A. Allowable subject matter

The Office action indicates that claims 6 and 18, though objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6 and 18 are rewritten herein as approved by the Examiner.

Consequently, Applicant requests allowance of claims 6 and 18.

B. Objections to drawings**a) Statement of the objection**

The Office Action states that the drawings are objected to because in figures 6 and 13 the horizontal projecting portion of the stirrups 105 and 205 is missing and should look as shown in figures 4 and 10.

b) Response to the objection

Figures 6 and 13 have been amended to incorporate the horizontal projecting portion of the stirrups 105 and 205.

C. Claim Rejections – 35 U.S.C. § 103

Claims 1-5 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,037,351 to Van Den Nieuwelaar et al. in view of U.S. Patent No. 2,456,224 to Sullivan.

Claims 7-8 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan in view of U.S. Patent No. 6,179,702 to Hazenbroek.

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan and Hazenbroek as applied to claim 8 above, and further in view of U.S. Patent No. 3,781,946 to Altenpohl.

Claims 11-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. as modified by Sullivan and Hazenbroek as applied to claim 8 above, and further in view of Altenpohl.

Claims 19-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,488,635 to Linville in view of Sullivan in view of U.S. Patent No. 4,896,399 to Hazenbroek.

Claim 1

a) Statement of the Rejection

Claim 1 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,037,351 to Van Den Nieuwelaar et al. in view of U.S. Patent No. 2,456,224 to Sullivan.

The Office Action states in pertinent part, “Regarding claim 1, the claim language states that the trolley engages the weighing scale track. The claim does not state that specific components of the shackle are to be weighed only and therefore these limitations have no bearing on the patentability of the claim. The claim does not state that a lighter mass of the trolley is to be weighed and instead states that the trolley engages the weighing scale track, which infers that the entire trolley is weighed when the trolley is on the weighing scale track.” (Emphasis added).

b) Response to Rejection

Applicant appreciates Examiner’s comments, which point out one of several important aspects of Applicant’s invention that are neither disclosed or suggested in the prior art references. As is known, MPEP 706.2(j) *Contents of a 35 U.S.C. 103 Rejection* states that such disclosure or suggestion must exist as one of three basic criteria for establishing a *prima facie* case of obviousness. Furthermore, MPEP 706.2(j) also states that the prior art references “must teach or suggest all of the claim limitations.”

The Office action also states that “the Sullivan reference is used to disclose the telescoping motion of the shackle only” (Emphasis added) and “the Sullivan reference is not used to show the weighing of the device,” while Viewwelaar et al. “does not show the trolley moves upward or downward via a telescopic motion.”

As a corollary to these Office Action statements, Applicant has been unable to find in either Viewwelaar or in Sullivan, disclosure related to weighing a part of the shackle assembly rather than the whole assembly.

In the interests of further clarifying and/or defining the scope of the invention, Applicant has amended claim 1, which now reads in pertinent part, “said connector means configured for providing a weight measurement consisting essentially of the weight of said bird carrier, said trolley, and the carcass, when said shackle assembly engages the weighing scale.” The shackle assembly of claim 1 comprises a trolley support, a bird carrier, a trolley, and turning means. Consequently, amended claim 1 incorporates weighing of specific components of the shackle assembly rather than the entire assembly.

At least this aspect of claim 1, is not disclosed by the cited prior art references, and consequently, Applicant requests allowance of claim 1.

Claims 2-5

a) Statement of the Rejection

Claims 2-5 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,037,351 to Van Den Nieuwelaar et al. in view of U.S. Patent No. 2,456,224 to Sullivan.

b) Response to Rejection

Claims 2, 4, and 5 depend directly or indirectly on independent claim 1. Since independent claim 1 is allowable over the prior references of record, then dependent claims 2, 4, and 5 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988). Consequently, Applicant requests allowance of claims 2, 4, and 5.

Claim 3 has been cancelled merely to reduce the number of claims. Applicant reserves the right to pursue the subject matter of this claim in a continuing application, if Applicant so chooses, and does not intend to dedicate the cancelled subject matter to the public.

Claim 7

a) Statement of the Rejection

Claim 7 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan in view of U.S. Patent No. 6,179,702 to Hazenbroek.

The Office Action states in pertinent part, “Nieuwelaar et al. does not disclose a connector means for non-rotatably and telescopically connecting the bird carrier to the trolley support.”

b) Response to Rejection

Applicant has been unable to find in either Sullivan or in Hazenbroek, disclosure related to Applicant’s shackle assembly that improves the accuracy of weighing a carcass by weighing a portion of the shackle assembly rather than the entire assembly, when the shackle assembly engages a weighing scale.

In the interests of further clarifying and/or defining the scope of the invention, Applicant has amended claim 7, which now reads in pertinent part, “said connector means configured for providing a weight measurement consisting essentially of the weight of said bird carrier, trolley, and the carcass, when said shackle assembly engages the weighing scale.” The shackle assembly of claim 7 comprises a trolley support, a trolley, turning means, and a bird carrier for suspending the carcass. Consequently, amended claim 7 incorporates weighing of specific components of the shackle assembly rather than the entire assembly.

At least this aspect of claim 7, is not disclosed by the cited prior art references, such disclosure being necessary (refer MPEP 706.2(j)) for a proper rejection under 35 U.S.C. § 103(a).

The Office Action further states that Nieuwelaar discloses “a cam.” Assuming that this statement has been made in reference to Applicant’s “turning means,” Applicant has, in the interests of further clarifying and/or defining the invention, amended the pertinent part of claim 7, which now reads, “turning means, mounted to said trolley support, for rotating said trolley support together with said bird carrier.”

Again, at least such a "turning means" of claim 7, is not disclosed by the cited prior art references, such disclosure being necessary (refer MPEP 706.2(j)) for a proper rejection under 35 U.S.C. § 103(a).

Consequently, Applicant requests that claim 7 be placed in allowance.

Claims 8 and 10

a) Statement of the Rejection

Claims 8 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan in view of U.S. Patent No. 6,179,702 to Hazenbroek.

b) Response to Rejection

Claims 8 and 10 depend directly or indirectly on independent claim 7. Since independent claim 7 is allowable over the prior references of record, then dependent claims 8 and 10 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Consequently, Applicant requests allowance of claims 8 and 10.

Claim 9

a) Statement of the Rejection

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan and Hazenbroek as applied to claim 8 above, and further in view of U.S. Patent No. 3,781,946 to Altenpohl.

b) Response to Rejection

Claim 9 depends indirectly on independent claim 7. Since independent claim 7 is allowable over the prior references of record, then dependent claim 9 is also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Consequently, Applicant requests allowance of claim 9.

Claims 11-17

a) Statement of the Rejection

Claims 11-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. as modified by Sullivan and Hazenbroek as applied to claim 8 above, and further in view of Altenpohl.

b) Response to Rejection

Claim 17 has been cancelled merely to reduce the number of claims. Applicant reserves the right to pursue the subject matter of this claim in a continuing application, if Applicant so chooses, and does not intend to dedicate the cancelled subject matter to the public.

Claim 16 has been amended to include the limitations of cancelled claim 17.

Claims 11-16 depend directly or indirectly on independent claim 7. Since independent claim 7 is allowable over the prior references of record, then dependent claims 11-16 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Consequently, Applicant requests allowance of claims 11-16.

Claim 19

a) Statement of the Rejection

Claim 19 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,488,635 to Linville in view of Sullivan in view of U.S. Patent No. 4,896,399 to Hazenbroek.

b) Response to Rejection

Amended claim 19 states in pertinent part, "obtaining a weight measurement consisting essentially of the weight of the bird carrier, the trolley, and the carcass." Such a method of weighing a carcass together with a part of the shackle assembly rather than the whole shackle assembly, provides more accuracy in the weight measurement. This aspect of the invention has been explained in more detail in the original application.

At least this part of claim 19 is not disclosed or suggested in the cited prior art references, such disclosure and/or suggestion being necessary (refer MPEP 706.2(j)) for a proper rejection under 35 U.S.C. § 103(a).

Consequently, Applicant requests that claim 19 be placed in allowance.

if Applicant so chooses, and does not intend to dedicate the cancelled subject matter to the public.

Claim 21 has been amended to include the limitations of cancelled claim 22.

Claims 20-21 depend directly or indirectly on independent claim 19. Since independent claim 19 is allowable over the prior references of record, then dependent claims 20-21 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Consequently, Applicant requests allowance of claims 20-21.

Prior Art Made of Record

The prior art of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-2, 4-16, 18-21 and 23-25, are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,


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